

Remarks/Arguments

With entry of this amendment, claims 40, 42-43, 46-56 and 58-65 are pending in the above-captioned application. In order to foster compact and expedited prosecution, claims 1, 2, 4-23, and 25-38 are cancelled without prejudice or disclaimer herein. Applicants expressly reserve the right to file one or more of these claims in a continuing patent application. Claims 3, 24, 39, 41 and 45 have been previously withdrawn from consideration, and claims 44 and 57 have been previously cancelled in a previous amendment. Independent claims 40, 43, 61 and 65 have been amended to recite that the nanofibers can comprise silicon or silicon oxide to make it explicitly clear that the pending claims are to be construed to cover nanofibers comprising both silicon and/or its oxides. Support for these amendments to the independent claims can be found throughout the specification, and thus no new matter is entered. Claim 62 has been amended to correct a lack of antecedent basis issue raised by the Examiner. Claims 58-60 and 62-64 have been amended to correct lack of antecedent basis issues created by the amendments made to the independent claims 43 and 61, respectively, herein. Each of these amendments are made without prejudice to renewal of the claims in their original form and are not to be construed as abandonment or dedication of the previously claimed subject matter or agreement with any objection or rejection of record.

I. **Rejection Under 35 U.S.C. §112, second paragraph**

Claims 1, 2, 4-23, 25-38 and 62-64 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The cancellation of claims 1, 2, 4-23, and 25-38 herein without prejudice renders moot for now the rejections of such claims. Claim 62 has been amended to correct the lack of antecedent basis issue raised by the Examiner.

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II. Rejections Under 35 U.S.C. §102(e)/103(a)

Claims 1, 2, 4-23, and 25-38 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Knowles (US 2004/0071870) (“Knowles”). Claims 1, 2, 4-12, 22, 23 and 25-38 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Lee et al. (US 2004/0098023) (“Lee”).

As noted above, in order to foster compact and expedited prosecution, claims 1, 2, 4-23, and 25-38 are cancelled without prejudice or disclaimer herein. The cancellation of such claims herein is not to be construed in any way as an acquiescence or agreement with the Examiner’s rejection of such claims. Applicants expressly reserve the right to file one or more of these claims in a continuing patent application.

III. Double Patenting

Claims 1, 2, 4-20, 22, 23, 25-40, 42, 43, 46-56, 58-65 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-3, 5-19, 26-41, 50, 51, 55-63 and 78-80 of co-pending application No. 10/828,100. In the interest of fostering compact and expedited prosecution, Applicants are submitting a Terminal Disclaimer concurrently herewith to overcome any potential double patenting rejection concerning co-owned, co-pending Application Ser. No. 10/828,100. The filing of this Terminal Disclaimer is not an admission of the propriety of any such rejection. Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

IV. Power of Attorney

Applicant submitted a Power of Attorney document in this application on October 29, 2004, resubmitted a copy of that Power of Attorney document on May 23, 2005 in connection with its filing of a Request for Continued Examination in this case, and again requested entry of the Power of Attorney in the response filed on September 8,

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2005, to appoint the undersigned and to change the correspondence address for this application to the address of the undersigned associated with customer number 33140. The undersigned would be grateful if the Examiner would kindly acknowledge submission of the Power of Attorney documents in this matter and send all future correspondence to the address of the undersigned referenced below. A copy of the Power of Attorney documents are again submitted herewith.

In view of the foregoing amendments and remarks, Applicant believes that the present application is in condition for allowance and action toward that end is respectfully requested. If the Examiner believes that a telephone interview would expedite the examination of this application, the Examiner is requested to contact the undersigned at the telephone number below.

Respectfully submitted,



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